

AMENDMENTS TO THE DRAWINGS:

The attached drawing sheet includes changes to Fig. 4. This sheet, which includes Fig. 4, replaces the previously filed drawing sheet showing Fig. 4. In Fig. 4, the “transmit call” step has been relabeled with reference number “203.”

Attachment: One replacement sheet

REMARKS

Claims 14-41 are pending in the present application. Claims 14-16, 28-30 and 37-41 have been amended without prejudice. No new matter has been added herein by the present amendment, since support for the amendments can be found in the specification at, *inter alia*, page 3, lines 14-30; page 6, lines 1-20; page 7, lines 17-19; and in figures 1-4. In view of the foregoing amendments and following remarks, it is respectfully submitted that all of the presently pending claims are in allowable condition.

Applicants thank the Examiner for acknowledging the claim for foreign priority.

Applicants also thank the Examiner for indicating that the Information Disclosure Statement submitted on December 9, 2004 has been considered and made of record.

I. Drawing Objections

In response to the Examiner's objection to the drawings regarding Fig. 4, Applicants are submitting herewith a replacement drawing sheet containing amended Fig. 4, which now includes a designation of the "transmit call" step with reference number "203." In addition, the Substitute Specification has been amended to reflect this drawing change.

The Examiner further objected to drawings because Fig. 4 included reference character "204" which was not mentioned in the Substitute Specification. The Substitute Specification has been amended to show reference character "204".

Accordingly, Applicants respectfully submit that the drawing objections have been overcome.

II. Claim Objections

The Examiner objected to claims 37-39 because of informalities. The Examiner requested that line 1 of claims 37, 38 and 39 be amended to replace "device" with "system." Although Applicants do not agree with Examiner's objection, Applicants have made the requested replacement, without prejudice. Therefore, Applicants respectfully submit that the objection has been overcome.

III. Rejection of Claims 14-22, 26-27, 37, 39 and 41 under 35 U.S.C. § 102(b)

Claims 14-22, 26-27, 37, 39 and 41 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Kennedy, III et al. (US Patent Number 5,734,981). Applicants respectfully submit that the rejection should be withdrawn for at least the following reasons.

To anticipate a claim under § 102(b), a single prior art reference must identically disclose each and every claim element. See Lindeman Maschinenfabrik v. American Hoist and Derrick, 730 F.2d 1452, 1458 (Fed. Cir. 1984). If any claimed element is absent from a prior art reference, it cannot anticipate the claim. See Rowe v. Dror, 112 F.3d 473, 478 (Fed. Cir. 1997). Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claim invention, arranged exactly as in the claim. Lindeman, 703 F.2d 1458 (Emphasis added). Additionally, not only must each of the claim limitations be identically disclosed, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed invention, namely the inventions of the rejected claims, as discussed above. See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986). To the extent that the Examiner may be relying on the doctrine of inherent disclosure for the anticipation rejection, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

Amended independent claims 14-16, 37, 39 and 41 recite, in relevant parts, a control center that calls a terminal; the terminal terminates the call without accepting the call; the terminal checks, on the basis of data delivered by the call, whether a connection to the control center is permitted to be established; the terminal establishes a connection by calling the control center; and then data is transmitted via the connection.

Kennedy III et al. reference describes various options for how a communication can be established between a mobile unit 12 and a platform 18, i.e., a server. One disclosed option provides the platform sending a call-back message via a data network 16. Receiving the message, the mobile unit initiates a connection between the platform and itself on the voice communication network 20. (See column 3, lines 28-30). The data transceiver 100 is used for the call-back message, and not the transceiver of the voice channel 94. (See column 10, lines 13-

35.) This is clearly different from the aforementioned features recited in Applicants' independent claims, which require that the terminal (mobile unit) terminate the call without accepting the call, and then check, on the basis of data delivered by the call, whether a connection to the control center (server), is permitted to be established. Thus, in contrast to Kennedy III et al., the present invention provides that there is no connection established between the server and the terminal when the server calls. Furthermore, as admitted in the Office Action, Kennedy III et al. "do not specifically show and disclose that the mobile unit, reading on the claimed 'terminal,' checks the request of the call back message." (Office Action, page 16). Since Kennedy III et al. fail to disclose, or even suggest, all of the features recited in amended independent claims 14-16, 37, 39 and 41, it is respectfully submitted that Kennedy III et al. do not anticipate amended independent claims 14-16, 37, 39 and 41.

As for 17-22 and 26-27, which ultimately depend from one of amended independent claims 14-16, and therefore include all of the features recited in independent claims 14-16, it is respectfully submitted that Kennedy III et al. do not anticipate these dependent claims for at least the same reasons more fully set forth above in support of the patentability of independent claims 14-16, 37, 39 and 41.

For at least the foregoing reasons, withdrawal of this rejection is respectfully requested.

IV. Rejection of Claims 23-25 and 28-30 under 35 U.S.C. § 103(a)

Claims 23-25 and 28-30 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kennedy III et al. in view of Oka (U.S. Patent No. 6,091,945).

In order for a claim to be rejected for obviousness under 35 U.S.C. § 103(a), not only must the prior art teach or suggest each element of the claim, the prior art must also suggest combining the elements in the manner contemplated by the claim. See Northern Telecom, Inc. v. Datapoint Corp., 908 F. 2d 931, 934 (Fed. Cir. 1990); In re Bond, 910 F. 2d 831, 834 (Fed. Cir. 1990). The Examiner bears the initial burden of establishing a prima facie case of obviousness. The Examiner must show, inter alia, that there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references, and that, when so modified or combined, the prior art teaches or suggests all of the claim limitations. See M.P.E.P. §2143. To the extent that the

Examiner may be relying on the doctrine of inherent disclosure for the obviousness rejection, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

Claims 23-25 and 28-30 are each dependent on independent claim 14, 15 or 16, and therefore these dependent claims include, *inter alia*, the feature that the terminal terminates the call without accepting the call from the server. As noted above, Kennedy III et al. clearly fail to teach or suggest this claimed feature. Furthermore, Applicants note that Oka clearly does not teach or suggest this claimed feature. Therefore, claims 23-25 and 28-30 are not rendered obvious by the combination of Kennedy III et al. and Oka because these references fail to teach or suggest the feature that the terminal terminates the call without accepting the call from the server.

For at least the foregoing reasons, withdrawal of this rejection is respectfully requested.

V. Rejection of Claims 31, 33-36, 38 and 40 under 35 U.S.C. § 103(a)

Claims 31, 33-36, 38 and 40 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kennedy III et al. in view of Kolls (U.S. Patent No. 6,856,820 B1).

Claims 31 and 33-36 each ultimately dependent on independent claim 14, 15 or 16, and therefore these dependent claims include, *inter alia*, the feature that the terminal terminates the call without accepting the call from the server. Amended independent claims 38 and 40 also include this feature. As noted above, Kennedy III et al. clearly fail to teach or suggest this claimed feature. Furthermore, Applicants note that Kolls clearly fails to teach or suggest this claimed feature. Therefore, claims 31, 33-36, 38 and 40 are not rendered obvious by the combination of Kennedy III et al. and Kolls because these references fail to teach or suggest the feature that the terminal terminates the call without accepting the call from the server.

For at least the foregoing reasons, withdrawal of this rejection is respectfully requested.

VI. Rejection of Claim 32 under 35 U.S.C. § 103(a)

Claim 32 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kennedy III et al. in view of Oka and in further view of Kolls.

Claim 32 is dependent on independent claim 15, and therefore claim 32 includes, *inter alia*, the feature that the terminal terminates the call without accepting the call from the server. As noted above, none of Kennedy III et al., Oka and Kolls teach or suggest this claimed feature. Therefore, claim 30 is not rendered obvious by the combination of Kennedy III et al., Oka and Kolls because these references fail to teach or suggest the feature that the terminal terminates the call without accepting the call from the server.

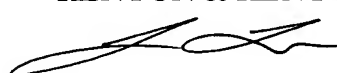
For at least the foregoing reasons, withdrawal of this rejection is respectfully requested.

CONCLUSION

In light of the foregoing, Applicants respectfully request allowance of all pending claims. Prompt reconsideration of the present application is earnestly solicited.

Respectfully Submitted,

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